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# भारत का राजपत्र

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इस भाग में विभिन्न पृष्ठ संख्या वी जाती है जिससे कि यह अलग संकलन के रूप में  
रखा जा सके

Separate Paging is given to this Part in order that it may be filed as  
a separate compilation

भाग II—खण्ड ३—उप-खण्ड (iii)  
PART II—Section 3—Sub-section (iii)

(हमें राष्ट्र के अधिकारियों को छोड़कर) केंद्रीय अधिकारियों द्वारा जारी किए गए सार्विधिक आदेश और अधिसूचनाएँ  
Orders and Notifications issued by Central Authorities (other than Administrations of Union  
Territories)

भारत निर्वाचन आयोग

आदेश

नई दिल्ली, ४ फरवरी, १९८८

आ. अ. 21:—निर्वाचन आयोग का समाधान हो गया है कि नीचे की सारणी के स्तम्भ (2) में  
यथा विनिर्दिष्ट पश्चिम बंगाल विधान सभा के निर्वाचन के लिए जो स्तम्भ (3) में विनिर्दिष्ट निर्वाचन क्षेत्र से हुआ है, स्तम्भ (4)  
में उसके सामने विनिर्दिष्ट निर्वाचन लड़ने वाला प्रत्येक अभ्यर्थी, लोक प्रतिनिधित्व अधिनियम, 1951 तथा तदीन बनाए गए नियमों  
द्वारा अपेक्षित उक्त सारणी के स्तम्भ (5) में यथा दर्शित अपने निर्वाचन व्यायों का लेखा दाखिल करने में असफल रहा है या अपने  
निर्वाचन व्यायों का लेखा समय के अन्तर्गत और अथवा रीति में दाखिल करने में असफल रहा है;

और उक्त अभ्यर्थियों ने सम्यक् सूचना दिए जाने पर भी उक्त असफलता के लिए या तो कोई कारण अथवा स्पष्टीकरण नहीं  
दिया है या उनके द्वारा दिए गए अभ्यावेदनों पर, यदि कोई हो, विचार करने के पश्चात् निर्वाचन आयोग का यह समाधान हो गया  
है कि उनके पास उक्त असफलता के लिए कोई पर्याप्त कारण या व्यायोचित्य नहीं है।

अतः श्रब, निर्वाचन आयोग उक्त अधिनियम की धारा 10-के अनुसरण में नीचे की सारणी के स्तम्भ (4) में विनि-  
दिष्ट व्यक्तियों को संसद के किसी भी मदन के या किसी राज्य/संघ राज्य क्षेत्र की विधान सभा अथवा विधान परिषद के सदस्य चुने  
जाने और होने के लिए आदेश की तारीख से तीन वर्ष की कालावधि के लिए निरहित घोषित करता है।

## सारणी

क्रम संख्या	निवाचित का विवरण सभा का संख्या	विधान सभा निवाचित-क्षेत्र को क्रम संख्या और नाम	निवाचित लड़ने वाले अभ्यर्थी का नाम और पता	निरहूता का कारण
1	2	3	4	5
1.	पश्चिम बंगाल विधान सभा का साधारण निवाचित, 1987.	14—मदारीहाट (अ. ज. जा.)	श्री सुभाष कारजी, इत्तर रंगीलीबजमा, आ. रंगीली बजमा जिला जलपाईगुड़ी, प. बंगाल।	निवाचित व्ययों का लेखा रीति से वापिल नहीं किया है।
2.	—वही—	30—करणजोधी	श्री चौधरी रतन कुमार, आ. रायगंज उकिलपारा, जिला प. दिनाजपुर, प. बंगाल।	निवाचित व्ययों का कोई भी लेखा दाखिल नहीं किया है।
3.	—वही—	—वही—	श्री मुहमद फारूक आदिल, ग्राम मुरहिल, आ. मवरगाची, जिला प. दिनाजपुर, प. बंगाल।	—वही—
4.	—वही—	—वही—	श्री हसीबुर रहमान, ग्राम उत्तर दलखोला, आ. दलखोला जिला प. दिनाजपुर, प. बंगाल।	—वही—
5.	—वही—	23—कुशमंडी (अ. जा.)	श्री आनन्दा राय, ग्राम सलखैर, आ. शिवकृष्णपुर, जिला प. दिनाजपुर, प. बंगाल।	—वही—
6.	—वही—	34—इटाहर	श्री जितेन्द्र नाथ सरकार, ग्राम बनबोल, आ. सोनापुर, जिला प. दिनाजपुर, प. बंगाल।	—वही—
7.	—वही—	37—तपन (अ. ज. जा.)	श्री जापान हसदा, ग्राम रंगामति, आ. तेलीधाटा, जिला प. दिनाजपुर, प. बंगाल।	—वही—
8.	—वही—	—वही—	श्री भोला हेमबरन ग्राम बड़ा दुर्गापुर, आ. रामकृष्णपुर, जिला प. दिनाजपुर, प. बंगाल।	—वही—

1	2	3	4	5
9.	पश्चिम बंगाल विधान सभा का साधारण निर्वाचन, 1987.	84—बगड़ाहा (अ. जा.)	श्री आमुतोश मजुमदार, ग्राम पुर्वो हुदा, डा. बलीयाडांगा, जिला नार्थ 24—परगना, प. बंगाल।	निर्वाचन व्ययों का कोई भी लेखा दाखिल नहीं दिया है।
10.	—वही	89—श्रगडंगा	श्री संतोष कुमार घोण, ग्राम चन्द्रापुर, डा. दत्तापुकर, जिला नार्थ 24—परगना, प. बंगाल।	निर्वाचन व्ययों का लेखा समय के अन्वर और रीति में दाखिल नहीं किया है।
11.	—वही—	97—हरोआ (अ. जा.)	श्री सुबोध कुमार टिकादार, ग्राम बक्षारा, डा. बाईकारा, जिला नार्थ 24—परगना, प. बंगाल।	निर्वाचन व्ययों का कोई भी लेखा दाखिल नहीं किया है।
12.	—वही—	135—पानीहटी	श्री दुर्गेश बन्दोपाध्या, सनित बैनजी रोड, डा. गोलाबाजार, जिला नार्थ 24—परगना, पिन—7431070, प. बंगाल।	—वही—
13.	—वही—	157—विद्यासागर	श्री छेदी लाल पोदार, 153-ए., मुक्ताराम, बाबू स्ट्रीट, कलकत्ता—7, प. बंगाल।	निर्वाचन व्ययों का लेखा समय के अन्वर और रीति से दाखिल नहीं किया है।

[सं. 76/प. व.-वि. सं./88]

आदेश से,  
एस. डी. प्रशाद, अवर सचिव

## ELECTION COMMISSION OF INDIA

## ORDER

New Delhi, the 8th February, 1988

O. N. 21.—Whereas the Election Commission is satisfied that each of [the contesting candidates specified in column (4) of the Table below at the general election to West Bengal Legislative Assembly, 1987 as specified in column (2) and held from the constituency specified in column (3) against his name has failed to lodge an account of his election expenses or failed to lodge the account within the time and or in the manner, as shown in column (5) of the said Table, required by the Representation of the People Act, 1951 and the Rules made thereunder;

And whereas the said candidates have either not furnished any reason or explanation for the said failure even after due notice or the Election Commission, after considering the representation made by them, if any, is satisfied that they have no good reason or justification for the said failure;

Now, therefore, in pursuance of section 10A of the said Act, the Election Commission hereby declares the persons specified in column (4) of the Table below to be disqualified for being chosen as, and for being a member of either House of the Parliament or of the Legislative Assembly or Legislative Council of a State/Union Territory for a period of 3 years from the date of this order.

## TABLE

S. Particulars of election No.	S. No. & Name of Assembly Constituency	Name & Address of Contesting candidate	Reasons for disqualification	
1	2	3	4	5
1. General election to West Bengal Legislative Assembly, 1987	14-Madarihat (ST)	Shri Subhash Karjee, Uttar Rangalibazna, P. O. Rangalibazna, Distt. Jalpaiguri, West Bengal.	Failed to lodge account in the manner required by law.	
2. -do-	30-Karandighi	Shri Chowdhry Ratan Kumar, P. O. Raiganj Ukilpara, Distt. West Dinajpur, West Bengal.	Failed to lodge any account of election, expenses.	
3. -do-	-do-	Shri Md. Farque Adil, Vill. Murhil, P. O. Madargachi, Distt. West Dinajpur, West Bengal.	-do-	
4. -do-	-do-	Shri Hasibur Rahaman, Vill. Uttar Dalkhola, P. O. Dalkhola, Distt. West Dinajpur, West Bengal.	-do-	
5. -do-	33-Kushmandi (SC)	Shri Ananda Roy, Vill. Shalkhair, P. O. Sibkrishnapur, Distt. West Dinajpur, West Bengal.	-do-	
6. -do-	34-Itahar	Shri Jitendra Nath Sarkar, Vill. Banbole, P. O. Sonapur, Distt. West Dinajpur, West Bengal.	-do-	
7. -do-	36-Tapan (ST)	Shri Japan Hasda, Vill. Rangamati, P. O. Telighata, Distt. West Dinajpur, West Bengal.	do-	
8. -do-	36—Tapan (ST)	Shri Bhola Hembran Vill. Bara Durgapur P.O. Ramkrishnapur Distt. West Dinajpur West Bengal.	do-	
9. -do-	84—Bagdaha (SC)	Shri Ashutosh Majumdar Vill. Purba Huda P.O. Baliadanga Distt. North, 24-Parganas, West Bengal.	do-	

1	2	3	4	5
10.	-do-	89—Amdanga	Shri Santosh Kumar Ghosh, Failed to lodge account Vill. Chandrapur, within time and in the P.O. Duttagupukur, manner required by law. Distt. North, 24-Parganas, West Bengal.	
11.	-do-	97—Haroa (SC)	Shri Subodh Kumar Tikader, Vill. Bakchara P.O. Baikara Distt. North, 24-Parganas, West Bengal.	Failed to lodge any account of election expenses.
12.	-do-	135—Panighati	Shri Durgesh Bandopadhyaya, Sunit Ba nerjee Road, P.O. Gholabazar, Distt. North, 24-Parganas, Pin 743 170, West Bengal.	-do-
13.	-do-	157—Vidya Sagar	Sh. Chedhi Lal Poddar 153-A, Muktaram Babu Street, Calcutta-7, West Bengal.	Failed to lodge within the time and in the matter required by law.

[No. 76—WB-LA/88]

By order,

S.D. PERSHAD, Under Secy.

## आदेश

नई दिल्ली, 8 फरवरी, 1988

आ. अ. 22:—निर्वाचन आयोग का समाधान हो गया है कि नीचे की सारणी के स्तम्भ (2) में यथा विनिर्दिष्ट जम्मू-कश्मीर विधान सभा के निर्वाचन के लिए जो स्तम्भ (3) में विनिर्दिष्ट निर्वाचन क्षेत्र से हुआ है, स्तम्भ (4) में उसके सामने विनिर्दिष्ट निर्वाचन लड़ने वाला प्रत्येक अभ्यर्थी जम्मू-कश्मीर लौक प्रतिनिधित्व अधिनियम, 1957 तथा नदधीन बनाए गए नियमों द्वारा अपेक्षित उक्त सारणी के स्तम्भ (5) में यथा उपर्युक्त अपने निर्वाचन व्ययों का कोई भी लेखा दाखिल करने में असफल रहा है,

और उक्त अभ्यर्थियों ने सम्यक सूचना दिए जाने पर भी उक्त असफलता के लिए या तो कोई कारण अथवा स्पष्टीकरण नहीं दिया है या उनके द्वारा दिए गए अभ्यावेदनों पर, यदि कोई हो, विचार करने के पश्चात् निर्वाचन आयोग का यह समाधान हो गया है कि उनके पास उक्त असफलता के लिए कोई पर्याप्त कारण या न्यायोचित्य नहीं हैं।

अतः अब, निर्वाचन आयोग उक्त अधिनियम की धारा 24-ड के अनुसरण में नीचे की सारणी के स्तम्भ (4) में विनिर्दिष्ट व्यक्तियों को जम्मू-कश्मीर राज्य की विधान सभा अथवा विधान परिषद् के सदस्य चुने जाने और होने के लिए इस आदेश की तारीख से तीन वर्ष की कालावधि के लिए निरहित घोषित करता है।

क्रम सं०	निर्वाचन का विवरण	विधान सभा निर्वाचन क्षेत्र की क्रम संख्या और नाम	निर्वाचन लड़ने वाले अभ्यर्थी का नाम और पता	निरहिता का कारण
1	2	3	4	5
1.	जम्मू-कश्मीर विधान सभा के लिए साधारण निर्वाचन, 1987	31—बाची	श्री प्राण नाथ भट्ट, सुपुत्र श्री आफताब राम, निवासी चकोरा, जिला पुलवामा	निर्वाचन व्ययों का कोई भी लेखा दाखिल करने में असमर्थ रहे।
2.	—वही—	32—शोपियान	श्री अयोब मलिक निवासी चौगान शोपियान, जिला पुलवामा	—वही—

1	2	3	4	5
3.	जम्मू-कश्मीर विधान सभा के लिये साधारण निवाचन, 1987.	32—शोपियान	श्री दौलत हुसैन सुपुत्र श्री मोहम्मद हुसैन, सैंटपुरा, शोपियान, जिला पुलवामा	निवाचन व्यवों का कोई भी लेखा दाखिल करने में असमर्थ रहे।
4.	—वही—	52—रिआसी	श्री अश्वनी कुमार शर्मा, निवासी गाव अरनास, तह. महोर, जिला झधमपुर	—वही—
5.	—वही—	60—बिल्लावर	श्री अब्दुल्ला भट्ट, निवासी थाल लोहई, तह. बिल्लावर, जिला कठुआ	—वही—
6.	—वही—	76—हवेली	श्री बशीर अहमद भट्ट, गाव व पो. साजियां, तह. हवेली, जिला पूँछ	—वही—
7.	—वही—	27—चारी शरीक	श्री गुलाम कादिर, सुपुत्र श्री खालिक राथर, निवासी बचरू, तहलील चादूरा, जिला बदगांव	—वही—
8.	—वही—	—वही—	श्री कफाज अहमद सुपुत्र श्री अब्दुल अहमद निवासी पनजान, तह. चादरा, जिला बदगांव	—वही—
9.	—वही—	43—लेह	श्री लोबजंग सटेजिन, मार्का होटल के. सार, लेह, जन्मू एण्ड कश्मीर	—वही—
10.	—वही—	57—बाजी ब्रह्मना (अ. जा.)	श्री भगतराम भगत, गांव चैक मियां, मुखा सिंह, तह. बिशना जिला जम्मू	—वही—
11.	—वही—	61—जम्मू पश्चिम	श्री रतन लाल, गली नं. 11 तलाब तिलु, जिला जम्मू	—वही—
12.	—वही—	—वही—	श्री सुभाष चन्द्र, 299-कुण्ड नगर, जम्मू	—वही—
13.	—वही—	—वही—	श्री सुभाष चन्द्र शर्मा, गुराह बक्शी नगर जम्मू 1	—वही—

1	2	3	4	5
14.	जम्मू-कश्मीर विधान सभा के साधारण निर्वाचन, 1987.	—वही—	श्री मुशरील बाली 149—राजगुरु भगतसिंह जम्मू।	निर्वाचन व्ययों का कोई भी लेखा दाखिल करने में असमर्थ रहे।
15.	—वही—	—वही—	श्री प्रान्ती स्वरूप शर्मा, मकान नं. 293, एकनेज रोड़, जम्मू।	—वही—
16.	—वही—	—वही—	श्री फाल्गु जावेद, 316—मौहल्ला जुलाका, जम्मू।	—वही—
17.	—वही—	—वही—	श्री कुलविन्दर मिहं एफ 355, चांद नगर, जम्मू।	—वही—
18.	—अवही—	—वही—	श्रीमती पुष्प लता, 333—गृह कासिम नगर, (बक्सी नगर) जम्मू।	—वही—
19.	—वही—	—वही—	श्री अजय शर्मा, निवासी 141—रेहारी कालोनी, जम्मू।	—वही—
20.	—वही—	62—जम्मू पूर्व	श्री अश्वनी कुमार, 91, गली मल्होत्रियां, जम्मू तबी।	—वही—
21.	—वही—	—वही—	श्री पवन कुमार, 30 पुरानी मूँडी, जम्मू।	—वही—
22.	—वही—	जम्मू	श्री संजय किशोर गुप्ता, 263, प्रताप गढ़, जम्मू तबी।	—वही—
23.	—वही—	—वही—	श्री राम स्वरूप चौधरी, बक्सी नगर, जम्मू तबी।	—वही—
24.	—वही—	—वही—	श्री हरी ओम रैना, 262, मसात धर, जम्मू तबी 1080001.	—वही—
25.	—वही—	—वही—	श्री भूषन लाल गुप्ता नजदीक रघुनाथ मंदिर, जम्मू तबी।	—वही—
26.	—वही—	64—मरह (अ. जा.)	श्री दीवान घन्द, गांव पिजौर चैकखाना तहू व जिला जम्मू।	—वही—
27.	—वही—	—वही—	श्री कृष्ण लाल, मौहल्ला पैरिय, जम्मू तबी।	—वही—

1	2	3	4	5
28.	जम्मू-कश्मीर विधान सभा के लिए माधारण निर्वाचन, 1987.	65—अखनूर	श्री जगदीश दत वाडे नं. 6, अखनूर (जिला जम्मू)	निर्वाचन व्ययों का कोई भी लेखा दाखिल करने में असमर्थ रहे।
29.	—वही—	—वही—	श्री जगदीश राज गांव गंजयाल, डाक बौकी, तह. अखनूर जिला जम्मू।	—वही—
30.	—वही—	—वही—	श्री सतपाल, 5/84, अखनूर, जिला जम्मू।	—वही—
31.	—वही—	65—अखनूर	श्री शाम लाल, गांव चके सिंगा, पो. गुड़याल, तह. व जिला जम्मू।	—वही—
32.	—वही—	66—छम्ब	श्री बेद व्यास, 8-ए, गांधी नगर, जम्मू तबी।	—वही—
33.	—वही—	3—लगेट	श्री गुलाम रसूल मोर्ची, सुपुत्र श्री गुलाम अहमद मोर्ची, निवासी शरहामा, जिला कुपवाड़ा।	—वही—
34.	—वही—	—वही—	श्री मो. मुलतान, सुपुत्र श्री हाजी अहद गनई, पंडितपुरा, पो. करालगड़, जिला कुपवाड़ा।	—वही—

[सं. 76/जम्मू कश्मीर वि. सं./87 (4)]

आदेश से,

आर. पी. भला, सचिव,

## ORDER

New Delhi, the 8th February, 1988

O.N. 22.—Whereas the Election Commission is satisfied that the contesting candidates specified in column (4) of the Table below at the election to the Jammu and Kashmir Legislative Assembly as specified in column (2) and hold from the constituency correspondingly specified in column (3) against their names have failed to lodge account of their election expenses, as shown in column (5) of the said Table, as required by the Jammu and Kashmir Representation of the People Act, 1957 and the Rules made thereunder;

And, whereas, the said candidates have either not furnished any reason or explanation for the said failure even after due notice or the Election Commission, after considering the representation made by them, if any, is satisfied that they have no good reason or justification for the said failure;

Now, therefore, in pursuance of section 24-E of the said Act, the Election Commission hereby declares the persons specified in column (4) of the Table below to be disqualified for being chosen as, and for being, a member of the Legislative Assembly or Legislative Council of the State of Jammu and Kashmir for a period of three years from the date of this Order. :—

## TABLE

S. Particulars of election No.	S. No. and name of assembly constituency.	Name and address of the candidates	Reason for disqualification.	
1	2	3	4	5
1. 1. General Election to Jammu and Kashmir Legislative Assembly, 1987.	31-Wachi	Shri Pran Nath Bhat, S/o Shri Aftab Ram R/o Chakoora, Distt. Pulwama (J & K)	Failed to lodge any account of election expenses.	

1	2	3	4	5
2.	General Election to Jammu and Kashmir Legislative Assembly, 1987	32-Shopian	Shri Ayub Malik R/o Chowgan Shopian, Distt. Pulwama (J&K)	Failed to lodge any account of election expenses.
3.	-do-	-do-	Shri Dawlat Hussain, S/o Shri Moh. Hussain, Saidpora, Shopian, Distt. Pulwama (J&K)	-do-
4.	-do-	52-Reasi	Shri Ashwani Kumar Sharma R/o Village Arnas, Tehsil Mahre , Distt. Udhampur (J&K)	-do-
5.	-do-	68-Billawar	Shri Abdllah Bhat, R/o Thal Lohai, Tehsil Billawar Distt. Kathua (J&k)	-do-
6.	-do- L	76-Haveli	Shri Basir Ahmad Bhatt, Vill. & P. O. Sawjian, Tehsil Haveli, Distt. Poonch (J&K)	-do-
7.	-do-	27-Chari-Sharief	Shri Ghulam Qadir S/o Shri Khaliq Rather. R/o Bachroo Teh Chadoora, Distt. Badgam (J&K)	-do-
8.	-do-	-do-	Shri Fayaz Ahmad, S/o Shri Abdul Ahad. R/o Ranzan Teh, Chadoora.	-do-
9.	-do-	43-Leh	Shri Lobzang Stanzin C/o Hotel K. Sar, Leh, (J & K)	-do-
10.	-do-	57-Bari Brahmana (SC)	Shri Bhagat Ram Bhagat. Vill. Chak Mian, Sukha Singh, Tehsil Bishnah Distt. Jammu (J&K)	-do-
11.	-do-	61-Jammu West	Shri Rttan Lal. Gali No. 11, Talab Tilo, Jammu (J&K)	-do-
12.	-do-	-do-	Shri Subhash Chander, 299-Krishan Nagar, Jammu (J&K)	-do-
13.	-do-	-do-	Shri Subhash Chander, Sharma. Gurah Bakshi Nagar, Jammu (J&K)	-do-
14.	-do-	-do-	Shri Sushil Bali. 149-Rajpura Mangotrian, Jammu (J&K)	-do-
15.	-do-	-do-	Shri Shanti Sarup Sharma, H. No. 293, Exchange Road, Jammu (J&K)	-do-
16.	-do-	-do-	Shri Farakh Javed. 316-Mohalla, Jullaka, Jammu (J&K)	-do-

1	2	3	4	5
17.	General Election to Jammu and Kshmir Legislative Assembly, 1987.	61-Jammu East	Shri Kulvinder Singh, F-355, Chand Nagar, Jammu (J&K)	Failed to lodge any account of election expenses
18.	-do-	-do-	Smt. Pushap Lata, 333, Gurah Qasim Nagar, (Bakshi Nagar) Jammu (J&K)	-do-
19.	-do-	-do-	Shri Ajay Sharma, H. No. 141-Rehari Colony, Jammu (J&K)	-do-
20.	-do-	62-Jammu East	Shri Ashwani Kumar, 91, Street Malhotrian, Jammu Tawi, (J&K)	-do-
21.	-do-	-do-	Shri Pawan Kumar, 30, Purani, Mandi, Jammu (J&K)	
22.	-do-	-do-	Shri Sanjay Kishore Gupta, 263, Pratap Ghar, Jammu Tawi (J&K)	-do-
23.	-do-	62-Jammu East	Shri Ram Sarup Chaudhary Bakshi Nagar, Jammu Tawi, (J&K)	-do-
24.	-do-	-do-	Shri Hri Om Raina, 262, Masat Ghar, Jammu Tawi-180001. (J&K)	-do-
25.	-do-	-do-	Shri Bhushan Lal Gupta, Ner Raghnath Mandir, Jammu Tawi (J&K)	-do-
26.	-do-	64-Marh (C)	Shri Dewan Chand, Vil. Pinjor Chack Kana, Teh. & Distt. Jammu (J&K)	-do-
27.	-do-	-do-	Shri Kishan Lal, Mohalla Parian, Jammu Tawi, (J&K)	-do-
28.	-do-	65-Akhnoor	Shri Jagdis Datt, Ward No. 6 Akhnoor Distt. Jammu (J&K)	-do-
29.	-So-	-do-	Shri Jagdish Raj, Vill. Ganjyal, P. O. Choki, Teh. Akhnoor, Distt. Jammu.	-do-
30.	-do-	-do-	Shri Sat Pal, 5/84, Aknoor Ditt. Jammu	
31.	-do-	-do-	Shi Shym Lal, Village Chack Singa, P.O. Gaudal, Teh. & Distt. Jammu (J&K)	-do-
32.	-do-	66-Chamb	Shri Ved Vyas, 8-A, Gandhi Nagar, Jammu Tawi,	-do-

1	2	3	4	5
33.	-do-	3-Langate	Shri Gh. Rasool Mochi, S/o Shri Gh. Ahmad, Mochi, R/o Sherhama, Distt. Kupwara	-do-
34.	-do-	-do-	Shri Mohd. Sultan, S/o Shri Haji Ahad Ganai, Pandithora, P.O. Karalgund Distt. Kupwara (J&K)	

[No. 76/J & K-LA/87(4)]  
R. P. BHALLA, Secy.

### आदेश

नई दिल्ली, 8 फरवरी, 1988

आ.अ. 23.—निवाचित आयोग का समाधान हो गया है कि नीचे की सारणी के स्तम्भ (2) में यथा विनिर्दिष्ट हरियाणा विधान सभा के निवाचित के लिए जो स्तम्भ (3) में विनिर्दिष्ट निवाचित क्षेत्र से हुआ है, स्तम्भ (4) में उसके साथमें विनिर्दिष्ट निवाचित लड़ने वाले अध्यर्थी, लोक प्रतिनिधित्व अधिनियम, 1951 तथा तद्दीन बनाए गए नियमों द्वारा अपेक्षित उक्त सारणी के स्तम्भ (5) में यथा उपर्युक्त रूप में अपने निवाचित अध्यर्थी को कोई भी लेखा विधि द्वारा अपेक्षित रीति से लेखा दाखिल करने में असफल रहे हैं,

और उक्त अध्यर्थीयों ने सम्पूर्ण लिए जाने पर भी उक्त असफलता के लिए या तो कोई कारण अथवा स्पष्टीकरण नहीं दिया है या उनके द्वारा दिए गए अस्यावेदनों पर, यदि कोई हो, विचार करने के पश्चात् निवाचित आयोग का यह समाधान हो गया है कि उनके पास उक्त असफलता के लिए कोई पर्याप्त कारण या न्यायोचित्य नहीं है,

अतः अब, निवाचित आयोग उक्त अधिनियम की धारा 10-के अनुसरण में नीचे की सारणी के स्तम्भ (4) में विनिर्दिष्ट अधिकारीयों को संसद के किसी भी सदन के या किसी राज्य की विधान सभा अथवा विधान परिषद के सदस्य चुने जाने और होने के लिए इस आदेश की तारीख से तीन वर्ष की कालावधि के लिए निरहित घोषित करता है।

### सारणी

क्र. सं.	निवाचित का विवरण	निवाचित क्षेत्र की क्रम सं. और नाम	निवाचित लड़ने वाले अध्यर्थी का नाम व पता	निरहित का कारण
1	2	3	4	5
1.	हरियाणा विधान सभा के साधारण निवाचित, 1987	22-यानेसर	श्री अमी चन्द, गांव व पो. डग्गेरी, जिला कुरुक्षेत्र।	निवाचित अध्यर्थों का कोई भी लेखा विधि द्वारा दाखिल करने में असमर्थ रहे।
2.	-वही-	-वही-	श्री बाबू राम, वाहन. 5/133, लाडवा, कुरुक्षेत्र।	-वही-
3.	-वही-	-वही-	श्री रघवीर कनवाल, गांव सिरसमा, पो. बीर मथाना, कुरुक्षेत्र।	-वही-
4.	-वही-	-वही-	श्री राम सिंह उमरी गांव व पो. उमरी, कुरुक्षेत्र।	-वही-

1	2	3	4	5
5.	हरियाणा विधान सभा के साधारण निवाचिन, 1987	22—थानेसर	श्री सुरेन्द्र सिंह, सुपुत्र मदन लाल, महावीर कालोनी, लाडवा, कुरुक्षेत्र।	निर्बाचित व्ययों का कोई भी लेखा दाखिल करने में असमर्थ रहे।
6.	—वही—	75—धिराई	श्री आनन्द, धानी शम लाल, जिला हिसार।	—वही—
7.	—वही—	—वही—	श्री उमेद सिंह, धानी रायपुर, तह. व जिला हिसार।	—वही—
8.	—वही—	—वही—	श्री दलीपा, गांव पाबरा, तह. व जिला हिसार।	—वही—
9.	—वही—	—वही—	श्री बलराज, गांव सिसई पोलन, तह. हांसी, जिला हिसार।	—वही—
10.	—वही—	—वही—	श्री राजपाल गांव डाबरा, तह. व जिला हिसार।	—वही—
11.	—वही—	70—बरचाला	श्री कृष्ण कुमार, बरचाला, जिला हिसार।	—वही—
12.	—वही—	—वही—	श्री जिन सिंह, रेखी खास, जिला हिसार।	—वही—
13.	—वही—	77—रतिया (अ.जा)	श्री बहल सिंह, गांव व पो. सधनवास, तह. टोहाना, जिला हिसार।	निर्बाचित व्ययों का लेखा विधि द्वारा अपेक्षित रीति से दाखिल नहीं किया
14.	—वही—	73—णहू कर्ता	श्री अशोक कुमार गांव सारंगपुर, तह. आदमपुर, जिला हिसार।	निर्बाचित व्ययों का कोई भी लेखा दाखिल करनाने में असमर्थ रहे।
15.	—वही—	20—साहावाद	श्री तेज प्रकाश सिंह, गांव बाकला, पो. टिगरी, कुरुक्षेत्र	—वही—
16.	—वही—	—वही—	श्री बलजिंदर सिंह, गांव खाहनगढ़, पो. खरितवा, जिला थानेसर, कुरुक्षेत्र।	—वही—
17.	—वही—	—वही—	श्री भूरा, गांव समालका, तह. थानेसर, कुरुक्षेत्र।	—वही—

1	2	3	4	5
18.	हरियाणा विधान सभा के साधारण निर्वाचन, 1987	20—शाहबाद	श्री माखन लाल, गांव बाजिदपुर, तह. थानेसर, कुरुक्षेत्र।	निवाचित व्ययों का कोईभी लेखा दाखिल करने में असमर्थ रहे।
19.	—वही—	—वही—	श्री राम कुमार, गांव व पो. थोल, तह. थानेसर, कुरुक्षेत्र।	—वही—
20.	—वही—	—वही—	श्री लेर मिह. म. न. 218 शाहबाद, कुरुक्षेत्र।	—वही—
21.	—वही—	23—पेहोवा	श्री जगन नाथ गांव घोरी शीण गरम, कुरुक्षेत्र।	—वही—
22.	—वही—	—वहाँ—	श्री प्रिया सिंह, गांव छोटबार होरी, तह. थानेसर, कुरुक्षेत्र।	—वही—
23.	—वही—	—वही—	श्री परमोद कुमार, खारा कुआ, पेहोवा, कुरुक्षेत्र।	—वही—
24.	—वही—	—वही—	श्री फकीरिया राम, गांव चौका, तह. गलहा, कुरुक्षेत्र।	—वही—
25.	—वही—	—वही—	श्री भगवान सिंह, गांधी नगर, पिहोवा, कुरुक्षेत्र।	—वही—
26.	—वही—	—वही—	श्री मेहर सिंह, गांव समधोला, तह. पेहोवा, कुरुक्षेत्र।	—वही—
27.	—वही—	—वही—	श्री राम चन्दर, गांव सरसवी खेरा, तह. पेहोवा कुरुक्षेत्र	—वही—
28.	—वही—	—वही—	श्री विकमजीत, गांव मोहनपुर, तह. पेहोवा, कुरुक्षेत्र।	—वही—
29.	—वही—	—वही—	श्री हरसाम सिंह, गांव भरीन, तह. पिहोवा, कुरुक्षेत्र।	—वही—
30.	—वही—	25—कैथल	श्री बाल मुकन्द, म. न. 110, करनाल रोड, कैथल, कुरुक्षेत्र।	—वही—
31.	—वही—	—वही—	श्री यशवीर सिंह, म. न. 926/9, मी. खरादीन, कैथल, कुरुक्षेत्र।	—वही—

1	2	3	4	5
32.	हरियाणा विधान सभा के लिए साधारण निर्वाचन, 1987।	25-कैथेट	श्री राम लाल, 246/8, चन्दोना गेट, कुरुक्षेत्र।	निराचित अधियों का कोई भी नेतृत्व दाखिल करने में असमर्थ रहे।
33.	-वही-	44-कलायत (अ.जा.)	श्री भगत राम, गांव ब पो, बाटा, तह. नरवाना, जिला जीन्द।	-वही-
34.	-वही-	48-जीन्द	श्री मुनील, म.न. 222, वार्ड नं. 4, बहादुरगढ़, शैतानक।	-वही-
35.	-वही-	-वही-	श्रीमती जानकी, गांव ब पो, ब्रह्माकांक, जिला जीन्द।	-वही-
36.	-वही-	10-तणल	श्री राम करण गांव ब ढाक बारा, तह. ब जिला अमृता।	-वही-
37.	-वही-	47-राजोद	श्री जोग इयान, गांव ब पो, नगुरान, तह. ब जिला जीन्द (हरियाणा)	-वही-

[स. 76/हरि.-वि. स./87(4)]  
आदेश से,  
के. सी. साहा, सचिव

### ORDER

New Delhi, the 8th February, 1988

O.N. 23.—Whereas the Election Commission is satisfied that each of the contesting candidates specified in column (4) of the Table below at the election to the Haryana Legislative Assembly as specified in Column (2) and held from the constituency specified in Column (3) against his name has failed to lodge an account of his election expenses or failed to lodge the account within the time and/or in the manner, as shown in column (5) of the said Table as required by the Representation of the People Act, 1951, and the Rules made thereunder;

And whereas the said candidates have either not furnished any reason or explanation for the said failure even after due notice of the Election Commission, after considering the representation made by them, if any, is satisfied that they have no good reason or justification for the said failure;

Now, therefore, in pursuance of section 10 A of the said Act, the Election Commission hereby declares the persons specified in column (4) of the Table below to be disqualified for being chosen as, and for being a member of either House of Parliament or of the Legislative Assembly or Legislative Council of a State/Union Territory for a period of 3 years from the date of this order.

### TABLE

S. No.	Particulars of election	S.No. and name of constituency	Name and address of the candidate	Reason for disqualification
1	2	3	4	5
1.	General Election to Haryana Legislative Assembly, 1987.	22—Thanesar	Shri Ami Chand, Vill. & P.O. Dabkheri, Kurukshetra.	Failed to lodge any account of election expenses.
2.	-do-	-do-	Shri Babu Ram, Ward No. 5/133, Ladwa, Kurukshetra.	-do-

1	2	3	4
3.	General Election to Haryana Legislative Assembly, 1987.	22--Thaneswar	Shri Raghbir Kanwal, Vill. Sirsma, P.O. Bir Maihana, Kurukshetra.
4.	-do-	-do-	Shri Ram Singh Umri, Vill. & P.O. Umri, Kurukshetra.
5.	-do	-do-	Shri Surinder Singh, S/o Madan Lal, Mahavir Colony, Lawda Kurukshetra.
6.	-do-	75—Ghirai	Shri Anand, Dhani Shamlal, Distt. Hissar.
7.	-do-	-do-	Shri Umed Singh, Dhani Raipur, Teh. & Distt. Hissar.
8.	-do-	-do-	Shri Dalipa, Vill. Pabra, Teh. & Distt. Hissar.
9.	-do-	-do-	Shri Balraj, Vill. Sasayabola, Teh. Hansi, Distt. Hissar.
10.	S-do-	-do-	Shri Raj Pal, Vill. Dabra, Teh. & Distt. Hissar.
11.	-do-	70--Barwala	Shri Krishan Kumar, Barwala, Distt. Hissar.
12.	-do-	-do-	Shri Zile Singh, Rakhi Khas, Distt. Hissar.
13.	-do-	77—Ratia (SC)	Shri Bahal Singh, Vill. & P.O. Sadhanwas, Teh. Tohana, Distt. Hissar.
14.	-do-	73—Bhattu Kalan	Shri Ashok Kumar, Vill. Sarangpur, Teh. Adampur, Distt. Hissar.
15.	-do-	20--Shahabad	Shri Tej Parkash Singh, Vill. Dakala, P.O. Tigri, Kurukshetra.
16.	-do-	-do-	Shri Baljinder Singh, Vill. Kahangarh, P.O. Kharindwa, Teh. Thanesar, Kurukshetra.
17.	-do-	-do-	Shri Bhura, Vill. Samalkhi, Teh. Thanesar, Kurukshetra.
18.	-do-	-do-	Shri Makhan Lal, Vill. Bazidpur, Teh. Thanesar, Kurukshetra.
19.	-do-	-do-	Shri Ram Kumar, Vill. & P.O. Thol, Teh. Thanesar, Kurukshetra.

1	2	3	4	5
20.	General Election to Haryana Legislative Assembly, 1987.	20. Shahabad	Shri Ser Singh, H.No. 218, Shahabad, Kurukshetra.	Failed to lodge any account of election expenses
21.	-do-	23—Pehowa	Shri Jagan Nath, Vill. Kheri Shish Garan, Kurukshetra.	-do-
22.	-do-	-do-	Shri Prithi Singh, Vill. Jhinwar Heri, Teh. Thanesar, Kurukshetra.	-do-
23.	-do-	-do-	Shri Parmod Kumar, Khara Kuan, Pehowa, Kurukshetra.	-do-
24.	-do-	-do-	Shri Faquiria Ram, Vill. Cheeka, Teh. Guhla, Kurukshetra.	-do-
25.	-do-	-do-	Shri Bhagwan Singh, Gandhi Nagar, Pehowa, Kurukshetra.	-do-
26.	-do-	-do-	Shri Mehar Singh, Vill. Sandhola, Teh. Pehowa, Kurukshetra.	-do-
27.	-do-	-do-	Shri Ram Chander, Vill. Saraswati Khera, Teh. Pehowa, Kurukshetra.	-do-
28.	-do-	-do-	Shri Vikramjit, Vill. Mohanpur, Teh. Pehowa, Kurukshetra.	-do-
29.	-do-	-do-	Shri Harnam Singh, Vill. Bharian, Teh. Pehowa, Kurukshetra.	-do-
30.	-do-	25—Kaithal	Shri Bal Mukand, H.No. 110, Karnal Road, Kaithal, Kurukshetra.	-do-
31.	-do-	-do-	Shri Yashvir Singh, H.No. 926/9, Moh. Kharadian, Kaithal, Kurukshetra.	-do-
32.	-do-	-do-	Shri Ram Lal, 346/9, Chandana Gate, Kaithal, Kurukshetra.	-do-
33.	-do-	44—Kalayat (SC)	Shri Bhagat Ram, Vill. & P. O. Batta, Teh. Narwana, Distt. Jind.	-do- -do-
34.	-do-	48—Jind	Shri Sunil, H.No. 222, Ward No. 4, Bahadurgarh, Rohtak.	-do-
35.	-do-	-do-	Shrimati Janki. Vill. & P.O. Brah Kalan, Distt. Jind.	-do-
36.	-do-	10—Naggal	Shri Ram Karan, Vill. & P.O. Bara, Teh. & Distt. Ambala.	Account not lodged in the manner required by law.

1	2	3	4	5
37.	General Election to Haryana Legislative Assembly, 1987	47—Rajound	Shri Jog Dhian, Vill. & P.O. Naguran, Teh. & Distt. Jind, (Kalka-V. Bie Ghaggar)	Failed to lodge any account of election expenses.

[No. 76/HN-LA/87(4)]

By Order,  
K.C. SAHA, Secy.

नई दिल्ली, 12 फरवरी, 1988

आ. अ. 24.—लोक प्रतिनिधित्व अधिनियम, 1951 (1951 का 43) की धारा 106 के अनुसरण में, निर्वाचन आयोग, अजी 1985 की निर्वाचन सं. 1 में इलाहाबाद उच्च न्यायालय इलाहाबाद के तारीख 5 जनवरी, 1988 के निर्णय को एतद्वारा प्रकाशित करता है।

[सं. 82/उ.प्र.-सो.स./1/85(इला.)]  
आदेश दे,  
बलवन्त सिंह, अवर सचिव

New Delhi, the 12th February, 1988

O.N. 24.—In pursuance of section 106 of the Representation of the People Act, 1951 (43 of 1951), the Election Commission hereby publishes the judgement dated the 5th January, 1988 of the High Court of Judicature at Allahabad in Election Petition No. 1 of 1985.

[No. 82/UP-HP/1/85(Alld.)]

By Order,

BALWANT SINGH, Under Secy.

IN THE HIGH COURT OF JUDICATURE AT  
ALLAHABAD

CIVIL SIDE

RESERVED

ORIGINAL JURISDICTION

Dated, Allahabad, January 5th, 1988

Before The :

Hon'ble O. P. Mehrotra, J.

ELECTION PETITION NO. 1 of 1985

Order on the application of Ram Prakash Tripathi

Petitioner.

In Ref.

Ram Prakash Tripathi

Petitioner.

Versus

Smt. Sheela Dixit ..Respondent.

Counsel for the petitioner.—Shri K. N. Tripathi.

Counsel for the respondent.—Sri S. S. Bhattacharya

R. G. Padia

W. H. Khan.

This is an election petition under the Representation of People Act, by which petitioner, Ram Prakash Tripathi has questioned the validity of the election of respondent Smt. Sheela Dixit from 67 Kannauj Lok Sabha Constituency. The main ground on which the election of the respondent has been challenged is that the petitioner's nomination paper was illegally and improperly rejected by the Returning Officer on the ground that the petitioner had on that day held an office of profit under the State of Uttar Pradesh and as such was disqualified under Article 102(1)(a) of the Constitution of India.

There is no dispute that the election for election one member of the Lok Sabha from 67 Kannauj Lok Sabha Constituency was notified to be held in accordance with the following programme :

Last date for filing nomination paper	27-11-1984
Date of Scrutiny	28-11-1984
Date for withdrawal of candidature	30-11-1984
Date for poll, if necessary	27-12-1984
Date of counting of votes	28-12-1984

The petitioner alleges that he is an elector of 67 Kannauj Lok Sabha Constituency and that his name is entered at S. No. 175 in the electoral roll of village Harivallabhpur, Polling Station No. 114, Tahsil Chhibramau, District Farrukhabad relating to 310 Chhibramau Assembly Constituency, which is a part of 67 Kannauj Lok Sabha Constituency and respondent, had filed their nomination papers in the said Constituency. The petitioner had filed his nomination paper on 23-12-1984 (actually it should be 25-11-1984).

On the date of Scrutiny, viz., 28-11-1984 when the petitioner's nomination paper was taken up for scrutiny, one Shri Dharma Narain who had also filed nomination paper, raised an objection before the Returning Officer that the petitioner is disqualified for being chosen as member of Lok Sabha on the ground that he held an office of profit under the Government of Uttar Pradesh within the meaning of Article 191(1)(a) of the Constitution inasmuch as he was a Lecturer in Hira Lal Baish National Inter College on the date of filing his nomination paper and was still holding the said post, that he was in the pay of the Government of Uttar Pradesh and was paid from the State exchequer under the U. P. High School and Intermediate Colleges (payment of Salaries of Teachers and other Employees) Act, 1971 and that the said College was an authority subject to the control of the State Government. The petitioner filed a reply to the aforesaid objection contending, inter alia, that he was not disqualified for being chosen and for being a member of the Lok Sabha either under Article 191(1)(a) of the Constitution of India or even otherwise, as he did not hold any office of profit either in the Central Government or State Government, that he was not in the service of College from 16-11-1984 nor he received any pay from the said date, that the college was run by Society and not by the Government and as such his nomination paper was not liable to be rejected. The petitioner also file before the Returning Officer a certificate from the Principal of the College showing that the petitioner was no more in the service from 16-11-1984 and that one Shri Pramod Kumar Tripathi had been appointed in the vacancy of the petitioner.

The Returning Officer, however, held that the petitioner was holding an office of profit in the State of Uttar Pradesh and as such was disqualified under article 102(1)(a) of the Constitution. According he rejected the petitioner's nomination paper. The petitioner has challenged the validity of this order and has alleged that his nomination paper had been illegally and improperly rejected. He further alleges that on account of the illegal rejection of the nomination paper of the petitioner, the election of the respondent was rendered void under Sec. 100(1)(c) of the Representation of People Act and was liable to be said aside. He therefore, prayed that the election of the respondent as a Member of Lok Sabha should be declared void and set aside.

The respondent in her written statement pleaded that the petitioner being a teacher in an Intermediate College which was Governed by a Committee of Management under a Scheme contemplated by Section 16-A of the Intermediate Education Act and being paid salary from Government funds and being entitled to pension, family pension, gratuity, Group Insurance benefits incentive and bonus to the same extent as Government Servants, was, in fact, a Civil Servant of the Government and in any case was a holder of the office under the Government and thus disqualified to be nominated a member of any legislative body under the Constitution of India, and as such his nomination paper was rightly rejected by the Returning Officer. In para 35 of the written statement, it was pointed out that in paragraph 3 of the petition the petitioner has stated that he had filed his nomination paper on 23-12-1984, which is much later than the date for the withdrawal of candidature.

By an amendment of the written statement allowed on 11-9-1987, the respondent added paragraph 34-A to the written statement which runs as follows :

"34-A That the petitioner Rami Prakash Tripathi is neither recorded in the Electoral Roll nor is the person whose name is entered in the Electoral Roll at Serial No. 175 from 67 Kannauj Lok Sabha Constituency. The petitioner is a different person. The election petition at the instance of the petitioner is, therefore, not maintainable and is liable to be rejected on this ground alone."

On the pleadings of the parties, the following issues were framed :

- (1) Whether the copy of election petition which has been served on the respondent is duly attested true copy of the petition ? If so, whether it amounts to non-compliance of Section 81(3) of Representation of People Act, 1951 ? If so, to what effect ?
- (2) Whether the petitioner's nomination paper was improperly rejected by the Returning Officer on the ground that the petitioner had on that day held an office of profit within the meaning of Article 102 of Constitution of India ? If so, its effect ?
- (3) Whether the election petition filed by the petitioner is not maintainable and liable to be rejected as pleaded in para 34-A of the amended written statement ?
- (4) Do what relief, if any, is the petitioner entitled ?

Parties counsel agreed that issue No. 1 was required to be decided as preliminary issue. Accordingly learned counsel for the parties were heard on preliminary issue no. 1 and I proceed to dispose of the same.

Before addressing on preliminary issue No. 1 Sri S. S. Bhatnagar learned Advocate General appearing for the respondent pointed out that in paragraph 3 of the petition a wrong date of filing nomination paper by the petitioner viz. 23rd December, 1984 has been mentioned, and the same has been made to read 23rd November, 1984 by writing '11' above the figure '12'. It was not disputed that the correct date was 23rd November, 1984, but a wrong date 23rd December, 1984 had been mentioned in the original petition as well as in the copy supplied to the respondent. However figure '11' has been mentioned above figure '12' in the original petition,

without carrying out similar correction in the copy supplied to the respondent. It was contended that by furnishing incorrect copy, the petitioner has disregarded the mandate contained in Section 8(3) of the Representation of People Act, 1951 (hereinafter referred to as the Act) and the petition was liable to be dismissed on this ground alone.

Sri K. N. Tripathi, learned counsel for the petitioner while conceding that the inadvertence the date of filing nomination paper had been wrongly mentioned in paragraph 3 of the petition as 23rd December, 1984 instead of 23rd November, 1984, contended that this was merely a clerical error, which was apparent on the face of it and was known to the respondent, and in any case no prejudice had been caused to her. He contended that despite the fact that this mistake had been pointed out by the respondent in para 35 of her written statement, he did not consider it necessary to get the date corrected by seeking amendment, because the error in the date was apparently a clerical one, and was not relevant to the matter at issue and there was no question of any prejudice having been caused to the respondent.

I find myself in agreement with the above contention of the learned counsel for the petitioner. No doubt, a wrong date of filing nomination was mentioned in paragraph 3 of the petition as 23rd December, 1984 instead of 23rd November, 1984, yet this was only a clerical or typographical mistake, which did not cause any prejudice to the respondent nor the same had any material bearing on the matters at issue. Consequently, even though the petitioner did not take any step to get the mistake rectified by seeking amendment, despite the mistake having been pointed out in para 35 of the written statement, yet this was not such a mistake as would result in the dismissal of the election petition.

However, as regards the so called correction by writing the figure '11' above the figure '12' in paragraph 3 of the original petition, without carrying out a similar correction in the copy of the petition furnished to the respondent, Sri K. N. Tripathi contended that he has no idea as to when and by whom the figure '11' was inserted above the figure '12', and in any case this had neither been inserted by him or his client and it appears that this was done by some one after the petition had been filed in Court, so that it cannot be said that the copy of the petition furnished to the respondent was not correct or that it was not a "true copy" of the petition. It was also pointed out that all other corrections in the petition have been initialised by the petitioner, and if this correction by writing figure '11' was made before the filing of the petition in Court, the petitioner would have properly carried out the correction by scoring out the figure '12' and writing figure '11' and would have initialised the correction. It was also pointed out that the respondent had not raised this plea in writing either in her original written statement or be seeking amendment, and hence the learned counsel for the respondent cannot be permitted to raise this plea for the first time during arguments without any specific pleading to that effect.

This contention of the learned counsel for the petitioner is also not without force. In the first place, the above point raised by the learned counsel for the respondent for the first time during arguments cannot be considered in the absence of any specific pleading to that effect. It also appears that the so called correction by writing the figure '11' above the figure '12' in para 3 of the original petition, was not, in fact, a correction made by the petitioner or his counsel before filing the petition in Court. If that had been so, the figure '12' would have been properly cut or scored out, and the correction must have also been initialised by the petitioner. In all probability, the figure '11' was written above figure '12' inadvertently by some one perusing the petition and detecting the error. Moreover, even if this correction was there, and the same was not incorporated in the copy furnished to the respondent, it was merely a clerical or typographical mistake which was of no consequence and the petition could not be dismissed on that ground. It was held by the Supreme Court in the case of *Mithilesh Kumar Pandey Vs. Balwanath Yadav and others* (A.I.R. 1984 S.C. 305) that "a true copy means a copy which is wholly and substantially the same as the original and where there are insignificant or minimal mistakes, the Court may not take notice thereof", and that "when

the copy of the election petition served on the respondent contains only clerical or typographical mistakes which are of no consequence, the petition cannot be dismissed straightaway under Section 86 of the Act".

Now, coming to the preliminary issue No. 1, the respondent has filed the copy of the petition served on him, and the same having been admitted by the learned counsel for the petitioner, has been marked Ext. R-1. On each page of this copy there is an endorsement of "true copy" signed by the petitioner. It does not contain any endorsement to the effect "Attested to be True Copy" or "Attested True Copy". The preliminary objection raised by the respondent is that this copy has not been 'attested' to be true copy of the petition and that this amounts to non-compliance of the provisions of sub-section (3) of Section 81 of the Act, so that this Court was bound to dismiss the election petition as provided in Sec. 86(1) of the Act.

Sub-section (3) of Section 81 of the Act, provided as follows :

Every election petition shall be accompanied by as many copies thereof as there are respondents mentioned in the petition and every such copy shall be attested by the petitioner under his own signature to be a true copy of the petition".

The consequence of non-compliance of the above section has been mentioned in Section 86(1) which may be extracted thus :—

#### "86. Trial of election petition

(1) The High Court shall dismiss an election petition which does not comply with the provisions of Section 81 or Section 82 or Section 117".

It has not been disputed before me that the above provisions of Section 81(3) of the Act, corresponding to Section 89(3) of the Jammu & Kashmir Representation of the People Act (4 of 1957) have been held to be mandatory and not merely directory by the Supreme Court in the case of Sharif-ud-Din Vs. Abdul Ghani (A.I.R. 1980 S.C. 303). In para 20, the Supreme Court held thus :—

"We are, therefore, of the view that the requirement that every copy of the election petition which is intended for service on the respondent should be attested by the petitioner under his own signature is a mandatory requirement and the non-compliance with that requirement should result in the dismissal of the petition as provided in Section 94 of the Act. The High Court was, therefore, right in dismissing the petition on the above ground".

In that case the copies had been duly attested as true copies, but the attestation was done by the advocate for the petitioner and not by the petitioner himself under his own signature. It was held that this was not sufficient compliance of the mandatory provisions of law and the election petition was dismissed on that ground.

In the present case although there is an endorsement of "true copy" on each page of the copy of the election petition furnished to the respondent and the same is also signed by the petitioner himself, yet the copies have not been "attested" by the petitioner to be true copies. In fact, there is no endorsement of any attestation having been done on the copy, and the petitioner has merely signed after writing the words "True Copy" without "attesting" or "authenticating" or "verifying" that the same was true copy. The learned Advocate General appearing for the respondent contended that as the copy furnished to the respondent had not been "attested to be true copy" of the petition, the mandatory requirement of Section 81(3) had not been complied with, and the non-compliance with that requirement should result in the dismissal of the petition as provided in Section 86(1) of the Act. Sri K. N. Tripathi, on the other hand, contended that mere endorsement of "True copy" meant that it was attested to be "true copy" and nothing more was required to be done, and that there was sufficient compliance of the provisions of Section 81(3) of the Act. This leads us to a consideration of the scope and meaning of the words "shall be attested.....to be true copy of the petition" as they appear in Section 81(3) of the Act.

My attention was drawn to Webster's (New International) Dictionary Third Edition at page 141 where the meaning of word 'attest' has been given as—"to be a witness, to bear witness to; affirm to be true or genuine; to witness and authenticate by signing as a witness; to authenticate officially (as the truth of a writing)—to call to witness—". In the same Dictionary the meaning of "authenticate" has been given as "to make authentic; to make authoritative; give authority to; to make valid and effective by the proof, attestation or formalities required by law, to make credible; to establish convincingly as accurate, true, real or genuine—to verify the origin of; prove the authority of—".

In Encyclopaedia Britannica the meaning of "Attestation" has been given as "act of witnessing the execution of certain documents, such as deeds and wills, by persons who themselves sign the document and who, if available, may be called to identify the document in subsequent proceedings concerning it or questioning its validity".

Learned counsel for the petitioner contended that attestation of a will or deed as required by law is quite different than attestation of a petition to be true copy of the original petition. While this may be true, yet there is material difference between merely certifying a copy of a document to be true of the original and attesting it to be true copy. Attestation implies that the person executing or writing a document is present before the person attesting it. This is, however, not necessary when a person certified a document to be true copy of the original document. An illustration may be given. The Presiding Officer of a Court records a statement or delivers a judgment. Only the Presiding Officer himself or anyone in whose presence the statement is recorded or judgment is delivered and signed, such as the Reader of the Court, can attest a copy of that statement or judgment to be true copy. But the Head Copyist of the court, or for that matter anyone else, can certify the copy as 'True Copy' after comparing it with the original, irrespective of the fact as to whether or not he was present at the time when the original statement was recorded or the judgment was signed and delivered. Merely mentioning 'True Copy' means that the person merely certifies that the document was a true copy of the original, without taking any responsibility for the authenticity of the original. But when one attests a document, it further implies that the original was executed or written in the presence of the person attesting the document and by implication he further certifies that the original was genuine and takes upon himself the responsibility for the authenticity of the original. This, in my opinion, is the basic difference between merely "certifying or endorsing a document to be 'true copy'" and "attesting it to be true copy". Attestation clearly signifies something more than merely endorsing 'true copy'.

Sub-section (3) of Section 81 does not merely require that every election petition shall be accompanied by a true copy of the petition, but further requires that "such copy shall be attested by the petitioner under his own signature to be true copy of the petition". In the present case, although the copy of the petition served on the respondent was a true copy of the petition and also contained an endorsement of "True copy" made by the petitioner himself, yet the said copy was not an attested one as required by law. It did not contain any endorsement of attestation such as "attested to be true copy" or "Attested True Copy". Non-compliance of this mandatory provision of law must result in the dismissal of the election petition, as provided in sub-section (1) of Section 86 of the Act.

Learned counsel for the petitioner contended that placing such an interpretation would amount to giving a very technical and literal interpretation to the language used in the statute. To this I may merely observe that the law in this respect is technical and a strict and literal interpretation has to be given to the language used in the statute. Whenever a statute provides that a particular act is to be done in a particular manner and also lays down that a failure to comply with the said requirement leads to a specific consequence, it naturally follows that, if the act is not done in that particular manner, it must lead the specified consequence.

Learned counsel for the parties cited certain decisions in support of their respective contentions. Unfortunately, there is no decision involving exactly the same matter viz where "true copy" under the signature of the petitioner might have

been furnished, but the same was not attested. We have, therefore, to look to the cases in which similar matter came up for decision, and consider the principles laid down in those cases and what bearing they have to the facts of the present case.

As already cited above, in Sharif-Ud-din's case (*supra*) the copy served on the respondent was a true copy and it was duly attested by the Advocate for the petitioner, but not by the petitioner himself. It could be said that for all practical purposes there was hardly any difference whether the attestation was done by the petitioner or by his advocate. However, the Supreme Court gave a strict and technical interpretation to the provisions of the statute and held that the attestation by the Advocate for the petitioner could not be treated as equivalent of attestation by the petitioner under his own signature.

In the case of Ved Prakash Gaur Vs. Sukhan and others (A.I.R. 1984 Delhi 276) the petitioner had supplied photostat copies of the petition without requisite attestation. Here too it could be said that photostat copies were as good as the original so that for all practical purposes there was sufficient compliance of the provisions of the Statute. Here again a strict interpretation to the provisions of the Statute was given, and following the ratio in Sharifuddin's case (*supra*) it was held by the Delhi High Court that since the provisions of Section 86 were mandatory, the letter and spirit of law both must be complied with in cases of election petitions. As the copy which had been filed along with the election petition was not attested by the petitioner under his own signatures to be a true copy of the petition, although it was a photostat copy and there was no allegation that it was not a true copy, the election petition was dismissed on the preliminary objection that there was non-compliance of sub-section (3) of Section 81 of the Act.

In Rajendra Singh Vs. Smt. Usha Rani (A.I.R. 1984 S.C. 956) incorrect and incomplete copies of the election petition had been filed. It is, however, note worthy that the Supreme Court held that the requirements of Section 81(3) should be followed strictly and literally.

In para 3 of the judgment Fazal Ali J., observed thus :

"An analysis of this sub-section would reveal that every election petition should be accompanied by as many copies as there are respondents and that every copy should be attested by the petitioner under his own signature. If these requirements are not followed strictly and literally, it would result in dismissal of the election petition without any trial as provided by Section 86 of the Act".

In J. P. Goyal's case, which was decided along with the above mentioned Rajendra Singh's case, the copies served on the respondents contained page 17, yet the original petition did not contain page 17 and was sought to be added only by way of approaching the court for amendment of the petition, which was allowed by the High Court. The respondents, however, raised the objection that the copies served on them were not the correct and exact copies of the election petition. Upholding this objection and allowing the appeal and dismissing the election petition in limine under Section 86 of the Act, the Supreme Court observed in para 1<sup>5</sup> thus :

"The learned counsel for the respondent submitted that this a highly technical objection and did not cause any prejudice to the appellants because so far as their copies were concerned they already contained page 17. Mr. Bhandare, counsel for the appellants, however, submitted that this is beside the point and does not cure the invalidity of the election petition filed on 10th May, 1982. The mandate contained in Section 81(3) enjoins that there should be no difference of any kind whatsoever barring some typographical or insignificant omissions between the petition filed and the copy served on the respondent. If an entire page is missing in the petition but it is there in the copy served on the respondent, then it is manifest that the copy served was not an exact

and true copy of the petition. The consequences of the mandatory provisions of Section 81(3) could not be got over by praying for an amendment of the election petition because that would defeat the very object and purpose of Section 81(3). It is not disputed that this discrepancy between the election petition and the copies served on the appellants was undoubtedly there. In these circumstances, the High Court was wrong and committed a serious error of law in allowing the amendment of the petition. The High Court should have tried to appreciate the tenor and spirit of the mandate contained in Section 81(3) of the Act. In the case of Sharif-ud-Din Vs. Abdul Gani Lone (1980) I SCR 1177; (A.I.R. 1980 SC 303) this Court dismissed the election petition only on the ground that the words "attested to be a true copy" were not signed by the election petitioner and held that this was not a sufficient compliance with the provisions of S. 89(3) of the Jammu and Kashmir Representation of the People Act, which is the same as Section 81(3) of the Act. In the instant case, the inconsistency is much greater than in Sharif-ud-Din's case."

In paragraphs 17 and 18 of the judgment, Fazal Ali J. further went on to observe :

17. "This view has been consistently taken all through in all the decided cases of this Court for far, Reliance was, however, placed by the counsel for the respondents on the following observations of Dwivedi, J. in Satya Narain's case (A.I.R. 1974 SC 1185, Para 4) :—

'Our decision restores that primacy of procedure over justice. It makes Section 86(1) a tyrannical master. The rigidity of the rule of precedent ties me to its chains. My only hope now is that Parliament would make a just choice between the social interest in the supply of copies by the election petitioner alongwith his election petition and the social interest in the purity of election by excluding Section 81(3) from the purview of Section 86(1) of the Act.'

18. "The aforesaid observations express a pious wish but do not at all detract from what has been decided in this case and with which the learned Judge also agreed. Despite these observations the Parliament in its wisdom has not made any attempt to interfere with the peremptory and mandatory provisions of Section 81(3) resulting in the consequence of dismissal of the petition under Section 86 of the Act."

On the other hand, Shri K. N. Tripathi relied upon the following decisions :

- (1) Ch. Subbarao Vs. Member, Election Tribunal Hyderabad and others (A.I.R. 1964 S.C. 1027),
- (2) Dr. Anup Singh Vs. Abdul Ghani and others (A.I.R. 1963 Punjab 429), as affirmed by the Supreme Court in 1966 Doabia Election Cases page 60.
- (3) M. Kamalam Vs. Dr. V. A. Syed Mohammad (A.I.R. 1978 S.C. 840).
- (4) Dr. K. K. Mohammad Koya Vs. P. M. Sayeed (A.I.R. 1977 Kerala 160), and
- (5) Jameel Vs. Gul Mohammad and others (A.I.R. 1980 Raj. 166).

The above decisions were based on the assumption that the provisions of Section 81(3) were merely directory and not obligatory and that substantial compliance with the provisions of Section 81(3) was sufficient. In Ch. Subbarao's case (*supra*) type written and copies which accompanied the petition were carbon copies of the type script. The copies bore two signatures in original of the Election Petitioner authenticating both the contents of the petition as well as verification thereof. The petitioner did not, however, insert the word "true copy" before or above his signatures. This was held to be substantial compliance with the requirement of

Section 81(3) and it was held that the election petition could not be dismissed by the Tribunal. At the same time it was observed in paragraph 14 thus :

"When S. 81(3) requires an election petition to be accompanied by the requisite number of copies it becomes a requirement for the presentation of the election petition to the Commission, and therefore a condition precedent for the proper presentation of an election petition. If that is a requirement of S. 81, no distinction can be drawn between the requirements of sub-section (1) and (2) and of sub-section (3). We might add that if there is a total and complete non-compliance with the provisions of Sec. 21(3), the election petition might not be an election petition presented in accordance with the provisions of this part within S. 80 of the Act. We are, therefore, inclined to consider that if there had been such a non-compliance with the requirement of sub-section (3) not merely the Election Commission under Sec. 83 but the Election Tribunal under Sec. 90(3) would *prima facie* not merely be justified but would be required to dismiss the election petition."

In Dr. Anup Singh's case (*supra*) it was held that mandatory provisions of a statute must be complied with exactly, whereas in the case of a directory provision substantial compliance is enough. A Full Bench of the Punjab High Court had held in this case that where election petitioners have copied with all the provisions of Sec. 81(3) but each copy of the petition was not attested by the petitioner to be a true copy of the petition, but it was mentioned to be a true copy with the signatures of the petitioner, the petition would not be dismissed. The requirement that every copy of the petition shall be attested to be a true copy of the petition was not mandatory but was directory and substantial compliance with it will meet the object of the provision. This decision was thus based on the assumption that the provisions of Section 81(3) were only directory and not mandatory.

Similarly in M. Kamalam's case (*supra*), the election petition and the affidavit were typed together as one document and two copies of this document were filed for service on the respondent. The signature of the petitioner by way of authentication appeared at the foot of the copy of the affidavit but there was no such signature separately appended at the foot of the copy of the election petition. It was held that the petition could not be dismissed for non-compliance with sub-section (3) of Sec. 81 on the ground that the copy of the election petition was not attested by the petitioner under his own signature to be a true copy. It was observed that even if no signature was appended by the petitioner on the copy of the election petition proper and the signature is placed only at the foot of the copy of the affidavit, that is sufficient compliance with the requirement of the last part of sub-section (3) of Sec. 81. This decision is also based on the assumption that the provisions of Sec. 81(3) were not mandatory and consequently the Court did not insist on strict and literal compliance of the provisions but held that there was sufficient compliance with the requirement of the last part of Section 81(3).

In Dr. K. K. Mohammad Koya's case (*supra*) the copies were signed by the petitioner but they were not attested as "true copy". It was held that there was sufficient compliance with Section 81(3) of the Act. This case again was based on assumption that the provisions of Sec. 81(3) were merely directory and hence substantial compliance was held to be sufficient.

Similar was the position in Jameel's case (*supra*) in which omission to write true copy was held to be mere irregularity which did not vitiate election petition. This also pre-supposed that the provision contained in second part of Section 81(3) was not mandatory and hence was not required to be strictly complied with.

It would thus appear that the decisions relied upon by the learned counsel for the petitioner are based on the assumption that the provisions of the second part of Section 81(3) were not mandatory but were merely directory so that substantial compliance with the provisions was sufficient and it was not necessary that there should be strict and literal compliance. However, it appears that in the later decisions the Supreme Court has held that the provisions of the first part as well as second part of Section 81(3) of the Act are mandatory in nature and have to be strictly and literally complied with, otherwise election petition was liable to be dismissed under Section 86(1) of the Act. The provisions of first part of Section 81(3) had been held to be mandatory in the case of Satya Narain (*supra*), in which it was laid down as under :

"We are, therefore, clearly of the opinion that the first part of Section 81(3) with which we are mainly concerned in this appeal is peremptory provision and total non-compliance with the same will entail dismissal of the election petition under Sec. 86 of the Act."

Thereafter, as already observed above, the second part of Sec. 81(3) has also been held to be mandatory in nature in the case of Sharif-Ud-Din Vs. Abdul Gani (AIR 1980 S.C. 303) in which the Supreme Court observed as under :

"It is true that Section 81(3) of the Act is purely procedural in character and that ordinarily procedural law should not be given that primacy by Courts as would defeat the ends of justice. But if a law even though it may be procedural in character insists that an act must be done in a particular manner and further provides that certain consequence should follow if the act is not done in that manner, courts have no option but to enforce the law as it is."

In Sharif-Ud-Din's case the Supreme Court after discussing its earlier decisions laid down the tests for determining whether provision of statute was directory or mandatory and after applying those tests definitely held that the provisions of Sec. 89(3) of Jammu and Kashmir Representation of People Act, corresponding to Section 81(3) of the Representation of People Act, 1951; requiring that copy of election petition for the respondent should be attested by the petitioner, was a mandatory requirement and that its non-compliance should result in the dismissal of the petition. In my opinion, I am bound to follow the law laid down in these decisions.

In view of the above, it would appear that as the copy of the petition furnished to the respondent had not been attested by the petitioner, there was non-compliance with the second part of Section 81(3) of the Act and, consequently, the petition is liable to be dismissed as provided under Section 86(1) of the Act. Preliminary issue No. 1 is answered in favour of the respondent and the election petition is liable to be dismissed on this preliminary ground.

In the result, the election petition is dismissed under Section 86(1) of the Representation of the People Act for non-compliance with the mandatory provisions of Sec. 81(3) of the said Act.

As the petition is being dismissed on the preliminary objection raised by the respondent, the respondent will get half of her costs from the petitioner.

Dated: January 5, 1988.

Pawan Kumar/Radhey Shyam/  
Examined by K. K. Mishra.

Sd/-  
O. P. MEHROTRA, J.

